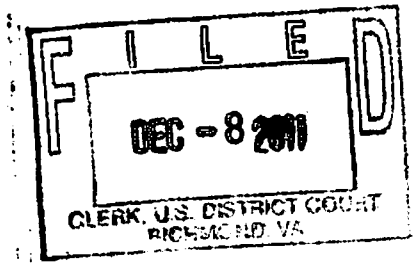


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division



KRISTEN BINNS

Plaintiff,

v.

H&P CAPITAL, INC.,

7960 Baymeadows Way, Suite 300
Jacksonville, FL 32256

SERVE: Secretary of the Commonwealth
Richmond, Virginia

Defendant.

Civil Case No.:

3:11cv819

COMPLAINT

COMES NOW the Plaintiff, Kristen Binns, (hereafter, "Binns" or "Plaintiff"), by counsel, and as for her Complaint against the Defendant, she alleges as follows:

1. This is an action for actual and statutory damages, costs, and attorney's fees brought pursuant to 15 U.S.C. § 1692 et seq. (the Federal Fair Debt Collection Practices Act or "FDCPA") and arising from Defendant's unlawful collection of a debt allegedly owed by Plaintiff.

JURISDICTION

2. Jurisdiction is proper pursuant to 15 U.S.C. § 1692k and 28 U.S.C. § 1331.

PARTIES

3. Plaintiff is a natural person and at all times relevant hereto was a "consumer" as defined and governed by the FDCPA, at 15 U.S.C. § 1692a(3).

4. Defendant H&P Capital, Inc. (hereafter, "H&P" or "Defendant"), is a company, the principal purpose of whose business is the collection of debts and is located at 7960 Baymeadows Way, Suite 300, Jacksonville, Florida 32256

5. Defendant regularly collects debts owed or due another or alleged to be owed or due another, and is a "debt collector" within the meaning of the FDCPA, as defined at 15 U.S.C. § 1692a(6).

STATEMENT OF FACTS

6. On October 28, 2011, Defendant placed a call to Plaintiff attempting to collect an alleged debt originating from a consumer credit account.

7. The person who called on behalf of Defendant refused to identify his/her name, even after Plaintiff requested that he/she provide such information. The Defendant also misrepresented its identity to the Plaintiff.

8. During the phone call, the Defendant threatened that nonpayment of the alleged debt by 5:00 p.m. would result in Plaintiff's arrest.

COUNT ONE: **VIOLATION OF 15 U.S.C. § 1692d**

9. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

10. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692d, by its actions, which include, but are not limited to, engaging in conduct the natural consequence of which was to harass, oppress, or abuse Plaintiff in connection with the collection of a debt.

11. As a result, Plaintiff is therefore entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs against the Defendant pursuant to 15 U.S.C. § 1692k.

COUNT TWO:
VIOLATION OF 15 U.S.C. § 1692e(4)

12. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

13. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(4) by its actions, which include, but are not limited to, the false representation that nonpayment of the debt by 5:00 p.m. would result in the arrest or imprisonment of the Plaintiff.

14. As a result, Plaintiff is therefore entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs against the Defendant pursuant to 15 U.S.C. § 1692k.

COUNT THREE:
VIOLATION OF 15 U.S.C. § 1692e(5)

15. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

16. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(5) by its actions, which include, but are not limited to, the threat to take action that could not legally be taken or that was not intended to be taken.

17. As a result, Plaintiff is therefore entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs against the Defendant pursuant to 15 U.S.C. § 1692k.

COUNT FOUR:
VIOLATION OF 15 U.S.C. § 1692e(7)

18. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

19. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(7) by its actions, which include, but are not limited to, the false representation that the Plaintiff committed a crime in order to disgrace and intimidate the Plaintiff.

20. As a result, Plaintiff is therefore entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs against the Defendant pursuant to 15 U.S.C. § 1692k.

COUNT FIVE:
VIOLATION OF 15 U.S.C. § 1692e(10)

21. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

22. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(10) by its actions, which include, but are not limited to, the use of false representations and/or deceptive means to collect or attempt to collect a debt.

23. As a result, Plaintiff is therefore entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs against the Defendant pursuant to 15 U.S.C. § 1692k.

COUNT SIX:
VIOLATION OF 15 U.S.C. § 1692f(1)

24. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

25. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. §

1692f(1) by its actions, which include, but are not limited to, the attempted collection of an amount not expressly authorized by the agreement creating the debt or permitted by law.

26. As a result, Plaintiff is entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs against the Defendant pursuant to 15 U.S.C. § 1692k.

WHEREFORE, your Plaintiff, moves for actual and statutory damages, punitive damages, attorneys' fees and costs pursuant to the Fair Debt Collection Practices Act, and such other relief the Court deems just, equitable, and proper.

TRIAL BY JURY IS DEMANDED.

Respectfully submitted,
KRISTEN BINNS

By Matthew J. Erausquin
Of Counsel

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